

REMARKS

This is a full and timely response to the above-identified Office Action. Reexamination and reconsideration in light of the proposed amendments and the following remarks are respectfully requested.

Claim Amendments

In this response, claim 5 is amended to provide proper antecedent basis with respect to the subject matter of claim 2. This amendment does not change the scope of the claim and does not introduce any new matter nor raise any new issues. Entry of this amendment is deemed proper in that it places the claims in better form for examination and allowance. Independent method claim 8 has been amended to depend from claim 1 and to correct a minor typographical error.

Rejections Under 35 USC § 103

The rejection of claims 1-7, 9 and 10 under 35 USC § 103(a) as being unpatentable over either of Cave or Miyamoto is respectfully traversed.

In order to establish a *prima facie* case of obviousness, it is necessary to show that the hypothetical person of ordinary skill would, without any knowledge of the claimed subject matter and without any inventive activity, be able to arrive at the claimed subject matter given the guidance of the cited references when each is fully considered.

This rejection is based on the unsupported premise that both Cave and Miyamoto disclose providing characters, marks or patterns on a seat belt and that a belt with such indicia may be readily grasped and would "inherently" prevent or at least lessen to some degree, slippage out of a user's grasp. It is further advanced that the material of the seat belt is considered to be a matter of design choice as is the type of material of the characters or marks and the manner in which they are applied to the seat belt.

This position is respectfully traversed. It is firstly submitted that "inherency" cannot be applied under 35 USC § 103 and is a doctrine limited only to anticipation rejections.

Further, for something to be inherent it must necessarily happen in all cases not just in some instances. In some cases it can be advanced that the belt treatments which are disclosed in these two references may actually produce a smoother more slippery surface than that of the untreated belt surface. There is, therefore, nothing to support the conjecture on which the rejection is based. That is to say, there is nothing to support the position that a better grip would be "inherently" produced by the surface treatments disclosed in Cave or Miyamoto in each and every instance.

In more detail, the Australian Patent Specification 262321 to Cave discloses a seat belt which is provided with a fiber pile for the purposes of attenuating the detrimental effect of a normal type seat belt rubbing abrasively on the user's clothing. The pile is preferably formed on both sides and is arranged to adhere to the clothing of the wearer. While the pile can be patterned, this patterning is intended only to provide aesthetic value and has no other disclosed function.

Indeed, there is no disclosure in Cave, that the pile has any effect on the grip applied as a person attempts to grip and manipulate the belt. The pile, which must be presumed to partially penetrate and therefore adhere to the wearer's clothes can be likened to short bristles on a brush. The question which needs to be dealt with is whether the bristles are easier to grasp than the bristle free handle of the brush. The fact that the pile can act like a hook and eye (Velcro®) arrangement on clothing has nothing to do with the grip between a human hand and the pile covered belt.

It is suggested that the pile of the arrangement which is disclosed in this reference actually reduces the amount of surface-to-surface contact friction between a smooth surface such as the skin on a person's fingers or the leather of a glove in which the hand is disposed. Slick racing tires have more surface area in engagement with the road surface and therefore more grip than grooved wet weather tires. Each fiber on the pile has a gap between it and the next fiber. Even if the pile bends when gripped it still fails to provide the same surface area as the belt webbing which, while not being

perfectly flat itself, is far less resilient than a flexible pile and apt to produce a higher coefficient of friction.

Without any disclosure as to the coefficient of friction which is produced by the pile, it cannot be simply assumed that a better grip will result from the treatment which is disclosed in this reference to Cave.

It is again submitted that a fiber pile is not suggestive of a printed surface such as claimed and is in fact such as lead away from a smooth surface and toward one composed of a myriad of fine flexible members. In contrast, the claimed printing on belt webbing will tend to fill in the gaps in the webbing and will tend to produce a flatter surface which will therefore tend to exhibit a greater surface area which available to be actually contacted by a user's fingers/hand.

The reference to Cave neither discloses nor suggests the claimed "printed means for preventing slippage" and therefore cannot be used to reject claim 10.

GB 2186612 A to Miyamoto discloses a high visibility material formed on the belt at a location which different from that which is grasped when putting on or taking off the seat belt. The purpose of the belt arrangement disclosed in this reference is also different from that of the claimed subject matter. In Miyamoto the object is to render the belt easily visible from outside of the vehicle and therefore focuses on portions of the belt which pass over shoulder and\or extend into clear view.

There is nothing in this reference which would lead the hypothetical person of ordinary skill to the conclusion that the highly visible surface treatment is not in fact more slippery than the untreated belt surface – noting again that it is not located in areas which are normally gripped. For example, if the surface treatment includes smooth and therefore reflective material (as can be assumed in the case that a highly visible belt portion is produced in accordance with the teachings of this reference), and unless deliberate steps are taken to prevent the same, the coefficient of friction may very well be lower than the normal belt surface and therefore actually be less easy to grasp hold of.

It is submitted that this rejection is based on the unsupported premise that what is disclosed would produce a less slippery more reliable gripping surface. However, the only suggestion of this comes from the Applicant's disclosure and not from the art of record.

In rejecting claims under 35 U.S.C. §103, it is incumbent upon the examiner to establish a factual basis to support the legal conclusion of obviousness. See *In re Fine*, 837 F.2d 1071, 1073, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). In so doing, the examiner is expected to make the factual determinations set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 17, 148 USPQ 459, 467 (1966), and to provide a reason why one having ordinary skill in the pertinent art would have been led to modify the prior art or to combine prior art references to arrive at the claimed invention. Such reason must stem from some teaching, suggestion or implication in the prior art as a whole or knowledge generally available to one having ordinary skill in the art. *Uniroyal Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 1051, 5 USPQ2d 1434, 1438 (Fed. Cir. 1988), cert. denied, 488 U.S. 825 (1988); *Ashland Oil, Inc. v. Delta Resins & Refractories, Inc.*, 776 F.2d 281, 293, 227 USPQ 657, 664 (Fed. Cir. 1985), cert. denied, 475 U.S. 1017 (1986); *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984). These showings by the examiner are an essential part of complying with the burden of presenting a *prima facie* case of obviousness. Note *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992).

The Miyamoto neither discloses nor suggests the claimed "printed means for preventing slippage" and therefore cannot be used to reject claim 10.

The rejection is further traversed in that it does not address the specific requirements of claim 2 which calls for the printed face to be made of silicon rubber.

The rejection is also traversed in that the rejection does not address the specific requirements of claim 5 which calls for a silicon composition which comprises 8~15 wt % of silicon oil, 2~10 wt % of epoxy silane, 0.5~1.0 wt % of amino silane, 0.1~0.4 wt % of platinum catalyst, 0.3~1.0 wt % of pigment, 1~8 wt % of calcium carbonate (CaCO₃), 2~10 wt % of silica 200 mesh or 300 mesh, for a silicon liquid phase rubber 100 wt %.

At the very least, the subject matter of claim 5 could not result from a simple design choice as alleged in this rejection.

Rejoinder of method claim 8, which has been made dependent on claim 1, is respectfully requested in light of *In re Ochiai*, 71 F.3d 1565, 37 USPQ2d 1127 (Fed. Cir. 1995) and *In re Brouwer*, 77 F.3d 422, 37 USPQ2d 1663 (Fed. Cir. 1996).

Conclusion

It is submitted that a *prima facie* case of obviousness has not be established for at least the reasons advanced above. Favorable reconsideration and allowance of this application is therefore courteously solicited.

The Examiner is invited to contact the undersigned in the event that the application is not completely in condition for allowance and in the event that there are remaining issues that may require resolution and that may be expeditiously dealt with telephonically.

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FOLEY & LARDNER
Customer Number: 22428



22428
PATENT TRADEMARK OFFICE
Telephone: (202) 672-5490
Facsimile: (202) 672-5399

Respectfully submitted,

By

Michael D. Kaminski
Attorney for Applicant
Registration No. 32,904

Keith J. Townsend
Registration No. 40,358